Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1996
No._____

H. Beatty Chadwick, Petitioner
v.
R.D. Andrews, successor to George Hill,
Warden, Delaware County Prison, Respondent
and
Barbara Crowther Chadwick, Respondent

ON WRIT OF CERTIORARI TO THE
SUPERIOR COURT OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Do the provisions of the sixth and fourteenth amendments to the United States Constitution require that a jury trial and other fundamental rights available to an accused in a criminal proceeding be afforded in cases of civil contempt where the contemnor has been imprisoned by a state court for 27 months?

2. Is imprisonment by a state court for an indefinite period, now 27 months in duration, as a sanction to coerce performance in civil contempt contrary to the rights secured under the eighth and/or fourteenth amendments to the United States Constitution?

3. Is imprisonment by a state court, now 27 months in duration, solely or primarily for the purpose of coercing the payment of money in a civil proceeding contrary to the rights secured by the fourteenth amendment to the United States Constitution?

4. Where a contemnor lacks the right to appeal a judgement

as to which he has been held in contempt and the judgement of contempt and imprisonment, is his imprisonment, now for 27 months, as a result of such judgements, contrary to the rights secured by the fourteenth amendment to the United States Constitution?

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PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF PENNSYLVANIA

To the Honorable, the Chief Justice and Associate Justices of the Supreme Court of the United States

H. Beatty Chadwick, the Petitioner herein, prays that a Writ of Certiorari issue to review the judgement of the Superior Court of Pennsylvania entered in the above entitled case on August 22, 1996, the Supreme Court of Pennsylvania having denied a petition for appeal thereof on April 8, 1997.

OPINION BELOW

The opinion of the Superior Court of Pennsylvania is unreported and is printed in Appendix A, page 1. The judgement of the Superior Court of Pennsylvania is printed in Appendix A, page 20. The Journal Entry of Judgement of the Court of Common Pleas of Delaware County, Pennsylvania, is printed in Appendix A, pp. 23 & 24.

JURISDICTION

The judgement of the Superior Court of Pennsylvania (Appendix A, page 20) was entered on August 22, 1996. A timely petition for allowance of appeal was denied by the Supreme Court of Pennsylvania on April 8, 1997 (Appendix A, pp. 21 & 22) The jurisdiction of the Court is invoked under 23 U.S.C. Sec.1257(a).

STATUTES INVOLVED

U.S. Constitution, Amendment VI: In all criminal

prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

U.S. Constitution, Amendment VIII: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Constitution, Amendment XIV, Section 1:...nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF CASE

The Petitioner has been imprisoned continuously since April 5, 1995 under an adjudication of contempt and imprisonment made by the Court of Common Pleas of Delaware County, Pennsylvania on November 2, 1994. (Appendix B, Page 1) Such adjudication was made in connection with a divorce action in which Petitioner is the Defendant. Under the terms of the adjudication, Petitioner's imprisonment is indefinite, is not subject to any condition by which Petitioner may cause his release, and is to continue "until a further hearing is held."

The contempt adjudication was made as a result of Petitioner's nonperformance of certain acts directed by an order of the trial court dated July 22, 1994 (Appendix B, page 5), principally that Petitioner pay, within twenty-four hours, the sum of $2,500,000 into an account administered by the trial court. Such amount represented monies Petitioner had paid to a third party under a joint venture agreement in February, 1993, eighteen months

before the entry of the order, and which Petitioner advised the trial court he was unable to pay as directed. The trial court, however, adjudicated Petitioner in contempt on August 29, 1994, but imposed no sanction. Sometime thereafter, the trial court, on its own motion, notified Petitioner that a hearing on a "Petition for contempt" would be held on October 31, 1994. No such petition existed, however, and Petitioner had no notice as to the purpose of such hearing. On October 31, 1994 the trial court again adjudicated Petitioner in contempt by reason of his inability to comply with the July 22, 1994 order, and directed, by order dated November 2, 1994, that Petitioner be arrested and imprisoned. (Appendix B, page 2)

The contempt proceeding on October 31, 1994, which resulted in order by which Petitioner is imprisoned, was a summary proceeding as was the earlier proceeding which adjudicated Petitioner in contempt on August 29, 1994. Petitioner was not

present (Petitioner's counsel advised him that he would be subject to immediate arrest if he appeared), no trial was held, no trial by jury was offered, and, contrary to statements in the opinion of the court below (Appendix A, pp. 10 & 11), no evidence was received by the trial court as to Petitioner's ability to comply with the underlying order as to which Petitioner was held in contempt.

Timely appeals of both the order of July 22, 1994 (Appendix B, pp. 5 & 6) and the contempt and imprisonment order of November 2, 1994 (Appendix B, page 1) were taken to the Superior Court of Pennsylvania. Each appeal was quashed as the Pennsylvania Superior Court deemed the orders appealed from to be interlocutory and not final until a final order in divorce and property division was entered. There had not been at that time nor has there yet been any such final order.

Prior to his arrest and imprisonment, Petitioner had filed with the trial court a petition to vacate the imprisonment order. This

petition was not heard by the trial court until after Petitioner's imprisonment and was denied by the trial court on April 21, 1995 without receiving any evidence. Petitioner was not permitted to be present. Petitioner appealed this decision to the Superior Court of Pennsylvania under various state law grounds and because of denial of his due process rights under the fourteenth amendment to the United States Constitution. The affirmance by the Superior Court of Pennsylvania of the trial court's decision is part of the judgement as to which review is now sought in this Petition.

After the Superior Court of Pennsylvania denied emergency review of the appeal from the trial court, Petitioner sought habeas corpus relief in several petitions filed in the trial court. All such petitions were denied. As in the case of the petition to vacate, the trial court did not receive evidence as to Petitioner's ability to comply with the order as to which he was held in contempt, despite statements to the contrary in the opinion of the court below.

(Appendix A, pp. 10 & 11) One of such denials, after Petitioner had been confined for six months, was appealed to the Superior Court of Pennsylvania and was consolidated with the earlier appeal. Both in the trial court and appellate court, Petitioner urged that his imprisonment was unlawful on various state law grounds and because Petitioner had been deprived of due process and equal protection of the laws to which he was entitled under the fourteenth amendment to the United States Constitution.

The Superior Court of Pennsylvania, on August 22, 1996, affirmed the orders of the trial court which denied Petitioner's petition to vacate the sanction of imprisonment and denied Petitioner's petition for writ of habeas corpus. The opinion of the Superior Court (Appendix A, page 1) discussed only some of the state law grounds for appeal and did not consider at all the grounds based upon the United States Constitution. The Superior Court first held that the burden of showing inability to comply

with a court order was upon the contemnor, thus placing upon the Petitioner the very difficult burden of proving he did not have the ability to pay $2,500,000. (Appendix A, page 7) The Superior Court then declined to disturb the finding of the trial court in the absence of bias, prejudice, or ill will (Appendix A, pp. 6 & 16) although such finding was based solely upon the trial court's disbelief of the Petitioner

Petitioner petitioned the Supreme Court of Pennsylvania to allow an appeal of this judgement based upon errors in the burden of proof and other state law grounds and also based upon the failure of the Superior Court to address the Federal Constitutional issues raised in that court. The Supreme Court of Pennsylvania denied the petition without comment on April 8, 1997.

Two additional petitions, although not involved in the instant proceeding, demonstrate Petitioner's serious plight. Prior to the decision of the Superior Court of Pennsylvania as to which review is sought, Petitioner filed another petition for habeas

corpus, his sixth, which the trial court again denied and which again was appealed to the Superior Court. The Superior Court affirmed that denial on April 23, 1997. Petitioner did not file a petition for allowance of appeal with the Pennsylvania Supreme Court because of the denial of the prior petition only a few weeks before and because of the exhaustion of funds for counsel fees. (H. Beatty Chadwick v. George Hill, Warden, Superior Court of Pennsylvania (unpublished) No. 2192 Phila.96 decided April 23, 1997).

In view of the inability to obtain relief from the state courts, Petitioner sought federal habeas corpus relief. However, this was denied on procedural grounds because petitioner had not appealed the April 23, 1997 Superior Court decision to the Supreme Court of Pennsylvania and thus the U.S. District Court concluded that Petitioner did not meet the requirement of exhaustion of state remedies. (H. Beatty Chadwick v. George Hill, Warden, United

States District Court for the Eastern District of Pennsylvania No. 96-6426 decided May 23, 1997)

REASONS FOR GRANTING WRIT

Petitioner submits that review of the decision below will provide a needed clarification of the standards of Federal due process and equal protection which must be met in connection with the exercise of the contempt power in the civil context, particularly where the sanction of imprisonment is imposed.

1. Without review, Petitioner who already has been imprisoned 27 months, is subject to indefinite imprisonment without a jury trial or other rights considered fundamental for those upon imprisonment is imposed. Moreover, the decision of the court below suggests that Petitioner is not an isolated case and that there is a need to clarify that in civil as well as criminal contempt, at least where imprisonment is imposed as is being suffered by the Petitioner, the rights secured by the sixth and

fourteenth amendments require a jury trial and other fundamental due process protections.

In Bloom v. State of Illinois, 391 U.S.194, 88 S.Ct.1477 (1968) the Court held, in a case where the contemnor had been imprisoned for two years, that the contemnor had a right to trial b jury for criminal contempt. It appears reasonably clear to Petitioner that this right and other fundamental rights of an accused in a criminal proceeding were extended to cases of civil contempt in United Mine Workers of America v. Bagwell, ___U.S.___, 114 S. Ct. 2552 (1994). In the latter decision the contempt was called civil, and involved a substantial fine. By extension, the rule also should apply to Peititoner's substantial imprisonment and should mandate his release as Petitioner was no afforded a jury trial.

The court below found no serious due process or other constitutional violations. It held that the Petitioner had and still

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has the burden of proving his assertion that he is unable to comply with the order as to which he was held in contempt. Indeed, the procedural issues aside, Petitioner's ability to so comply is the nub of the controversy in the court below. If Petitioner had had the benefits of trial and the presumptions applicable in a criminal proceeding, it would have been impossible to reach the conclusions relied upon by the court below.

Given the procedural context within which Petitioner has been judged, Petitioner has no possibility of securing an end to his imprisonment from the state courts. In addition to his petition to vacate the imprisonment, six habeas corpus petitions were denied by the trial court. Twice he has been denied relief by the Superior Court and the Supreme Court of Pennsylvania has refused to hear his appeal. The Supreme Court of Pennsylvania also denied two petitions for extraordinary relief submitted under such court's "king's bench" jurisdiction. The U.S. District Court has denied

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Petitioner federal habeas corpus relief because, although Petitione had been denied by the State Supreme Court once, he did not appeal a second denial by the State Supreme Court, thus applying the very rigorous exhaustion standards applicable to criminal defendants who already have had the benefit of a full trial in state courts.

Even after the United Mine Workers, Supra, decision it appears that state courts continue to be confused by the due process requirements applicable to civil contempt. The clarification of that issue will benefit not only the Petitioner but, these courts as well.

2. The authority of courts to impose imprisonment of indefinite duration for contempt should be limited by provisions o the eighth and fourteenth amendments.

The Petitioner submits that the power of a single judge to order indefinite confinement, subject only to his or her own decision as to termination, is repugnant to the due process and

equal protection rights secured by the fourteenth amendment. Where, as in the case where review is sought, 27 months already have been served in confinement in a civil action, a serious issue arises as to the occurrence of a violation of the rights secured by the eighth amendment as well.

The court below obviously believes that it possesses the unfettered power to order imprisonment of indefinite duration for civil contempt. Again, it appears that much of the difficulty arises from the murky distinctions made between criminal and civil contempt. In criminal contempt, which by definition punishes for contumacious acts, a definite, specified penal team is expected. (Appendix A, page 6). However, where the contempt is declared to be civil, or coercive in purpose, the courts generally appear to recognize no limit upon the period of imprisonment.,

As the court recognized in the United Mine Workers, supra, decision, the distinctions between criminal and civil contempt often

are without significant differences. Imprisonment still is imprisonment, and regardless of the labels used is punishment for those who must experience it. Under the position taken by the court below the court is in the anomalous position of treating those punished under the criminal laws less harshly than those wh have not.

Moreover, as pointed out in the United Mine Workers, supra decision, the court which adjudges contempt essentially is prosecutor, judge and jury and is hardly impartial. Thus, even where a contemnor is afforded all of the rights of a criminal defendant, if release from imprisonment nevertheless is at the whim of the judge who adjudged contempt, the issue as to lack of impartiality, and hence due process, remains.

3. The authority of the courts to use contempt and imprisonment for the sole or primary purpose of enforcing civil obligations for the payment of money should be subject to due

process and equal protection limitations.

Deprivation of liberty should be recognized as a sanction to punish for misbehavior and for no other purpose. It also should be recognized, consistent with the fifth and fourteenth amendments as a state sanction to be used to punish crimes against the state and not to enforce individual rights. Punishment of imprisonment for debt has long been abolished in the United States. It is suggested that attempts to resurrect such punishment in the guise of a contempt proceeding must be repugnant to the principles of due process and equal protection.

The case as to which review is sought illustrates one of the fundamental difficulties of using the contempt power to collect money. The trial court and the court below believe petitioner can pay; the Petitioner maintains that he cannot. The law provides many means by which money that is owed can be collected if, indeed, the debtor has the ability to pay. There is discovery in aid

of execution, execution on and attachment of assets, and wage attachment. Even the Federal Government is obliged to use such methods as opposed to imprisonment to collect taxes which are due.

In Harris v. U.S., 382 U.S.162, 86 S. Ct.352 (1965), which reviewed a federal criminal contempt proceeding, the Court recognized that the power to punish for contempt contemplated that the least power adequate to accomplish the court's objectives should be utilized. It is suggested that the Court review the decision below to address the due process issues inherent in the use of the contempt power to collect money obligations.

4. The authority to punish for contempt where there is no right to appeal the order as to which the contemnor has been held in contempt or the adjudication of contempt itself should be reviewed and found repugnant to the fourteenth amendment due process clause.

In the case as to which review is sought the court below found no due process violation even though the same court had determined that Petitioner had no right to appeal the trial court order as to which he was held in contempt or the adjudication of contempt and imprisonment itself. It is submitted that the right to appeal is a fundamental right, protected by federal due process, particularly where imprisonment has been or may be imposed as a sanction. Moreover, the same passions and lack of impartiality in the trial court that United Mine Workers, supra, pointed to in requiring a jury trial, also argue in favor of the due process right to appeal any such adjudication.

CONCLUSION

For the foregoing reasons Petitioner urges that this Petition for Writ of Certiorari should be granted.

Respectfully submitted,

H. Beatty Chadwick

H. Beatty Chadwick
Petitioner

Dated: June 26, 1997

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Barbara Jean Crowther Chadwick :IN THE SUPERIOR COURT
:OF PENNSYLVANIA

v. :

H. Beatty Chadwick, :

Appellant : No. 1555 Philadelphia, 1995

Appeal from the order dated April 21, 1995, Court of Common Pleas, Delaware County, Civil Division at No.92-19535

H. Beatty Chadwick, :

Appellant :

v. :

George Hill, Warden :

Delaware County Prison : No.3612 Philadelphia, 1995

Appeal from the Order entered October 5, 1995, Court of Common Pleas, Delaware County, Civil Division at No.95-80264

Barbara Jean Crowther Chadwick :

v. :

H. Beatty Chadwick, :

Appellant : No.3773 Philadelphia, 1995

Appeal from the Order entered October 6, 1995, Court of Common Pleas, Delaware County, Civil Division at No.95-19535

H. Beatty Chadwick, :

Appellant :

v :

Geoge Hill, Warden : No.963 Phildelphia, 1996

Delaware County Prison :

Appeall from the Order entered March 7, 1996, Court of Common Pleas, Delaware County, Criminal Division at No.95-80202

BEFORE: JOHNSON, FORD ELLIOTT AND HOFFMAN, JJ.

MEMORANDUM:

In these consolidated appeals, H. Beatty Chadwick (Husband) appeals from the orders that found him in contempt of court and denied his petitions seeking a release from incarceration. We affirm the trial court's disposition of these claims. Husband also appeals from orders directing him to produce tax returns and sign authorizations, and that denied his petition for a reduction in bail and for release through electronic home monitoring. Because these orders are interlocutory, we quash these appeals.

These actions originated in a divorce claim filed by Barbara Jean Crowther Chadwick (Wife) in 1992. During an equitable distribution conference in 1993, Wife discovered that Husband had transferred $2,502,000.00, the bulk of the marital estate, to a bank in Gibraltar without her knowledge or consent. Husband maintains that these funds were used to pay off a debt

due Maison Blanche Limited, a Gibraltar partnership, and that he no longer has control over the money. Wife filed an emergency petition to freeze the marital assets on April 29, 1994. At the hearing on this petition, Wife presented an affidavit from one of the principals of Maison Blanche that stated that $896,106.00 had been returned to the United States and deposited in an account in the name of H.B. Chadwick; that $995,726.41 had been transferred into an account in the Union Bank of Switzerland under the name of H.B. Chadwick; and that $550,000.00 in stock certificates that Husband claimed to have transferred to an unidentified barrister in England was never received by Maison Blanche. The trial court granted Wife's petition for emergency relief, ordered a freeze on all the marital funds, and ordered full disclosure of Husband's assets.

Following a second hearing in July 1994, the trial court ordered Husband to return within 24 hours the $2.5 million that had allegedly been transferred to Maison Blanche and place these

funds in an escrow account under the court's jurisdiction. The court also directed Husband to pay Wife's counsel fees, surrender his passport, and remain in Pennsylvania. In addition, the court referred the record of the proceedings to the District Attorney's Office for possible criminal prosecution of Husband.

When Husband failed to obey the court order, Wife filed a petition asking the court to hold him in contempt of court. Husband failed to appear at the three contempt hearings held in August and October of 1994. Husband was adjudicated in contempt of court and a bench warrant was issued for his arrest. Husband then filed an emergency petition to vacate the sanctions of incarceration and arrest. Husband was apprehended by sheriff's deputies in Delaware while the emergency petition was pending. Husband has been incarcerated in the Delaware County Prison since April 5, 1995. Following a hearing, the court denied his emergency petition for release from jail, found that Husband had a present ability to comply with the July 1994 order, and set a cash bail of $3 million. Husband has since filed a total of four

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petitions for writs of habeas corpus seeking a release from jail and claiming that he is unable to post bail and is unable to comply with the July 1994 order. The trial court has conducted a hearing on each petition and has declined to release Husband from jail prior to his compliance with the July 1994 order. Husband now appeals to this Court.

Husband's Appeal Docketed at No.1555 Philadelphia, 1995
Husband's Appeal Docketed at No.3612 Philadelphia, 1995

In these appeals, Husband, in essence, contends that the court erred in denying his petition to vacate the sanctions of incarceration and arrest. Husband also claims that he is illegally incarcerated because he has been in prison for more than six months on the civil contempt charge. Finally, Husband maintains that the civil contempt sanctions have lost their coercive effect, have become punitive, and thus violate Husband's right to due process under the law.

It is axiomatic that a court possesses the inherent power to enforce its orders by imposing sanctions for non-compliance.

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Travitzky v. Travitzky, 369 Pa.Super. 65, 534 A.2d 1081 (1987). Among the sanctions available to the trial court is the power to hold a party in contempt. Id.

Further, "[w]hen a party appeals a court's order holding them in contempt of court, our review is very narrow. We are limited to determining whether the trial court committed a clear abuse of discretion." Sinaiko v. Sinaiko, 445 Pa.Super. 56, 63, 664 A.2d 1005, 1009 (1995). An abuse of discretion is not shown merely by the fact that the appellate court would have decided the matter differently, but instead only when the trial court has misapplied the law or the judgement exercised is manifestly unreasonable, the result of bias, prejudice, or ill will. Keuther v. Snyder, 444 Pa.Super. 468, 471 664 A.2d 168, 169 (1995).

Contempt may be civil or criminal in nature. The defining characteristic of civil contempt is that it "'coerces with [a] conditional or indeterminate sentence of which the contemnor may relieve himself by obeying the court's order, while a criminal

adjudication of contempt punishes with a certain term of imprisonment or a fine which the contemnor is powerless to escape by compliance.'" Ingebrethsen v. Ingebrethsen 443 Pa.Super. 256, 260-61, 661 A.2d 403, 405 (1995), quoting Schnabel Assoc. v. Building and Constructions Trades council, Pa.Super. 376, 385-86, 487 A.2d 1327,1332 (1985) "A party must have violated a court order to be found in civil contempt." Sinaiko, supra at 64, 664 A.2d at 1009. When adjudicating a person to be in civil contempt, "the trial court must be convinced beyond a reasonable doubt from the totality of evidence presented that the contemnor has the present ability to comply with the order." Id. at 64-65, 664 A.2d at 1010. Should a contemnor allege that he is presently unable to purge himself of the contempt through compliance with the court's order, the contemnor then has the burden of establishing this affirmative defense. Id.

Once the dominant purpose of the contempt becomes that of punishing the contemnor for disobedience of the court's order,

the adjudication of contempt is criminal. Corzer-Chester Medical Center v. Moran, 522 Pa. 124, 560 A.2d 133 (1989). "The difference is best explained in [c]ourt house parlance; in civil contempt one has 'the key to the jail house.'" Id. at 130, 560 A.2d at 137. this distinction is important for the determination of the contemnor's procedural rights; a contemnor who will be sentenced to a term of imprisonment that he is powerless to purge through any affirmative act is entitled to the same procedural safeguards as anyone facing criminal proceedings. Id.

Husband initially maintains that the trial court did not have jurisdiction to find him in contempt of court for failure to comply with the July 22, 1994 order because he had taken an appeal of that order to this Court at the time the trial court found him to be in contempt. This contention is meritless. Rule 1701 (b) (6) of the Pennsylvanian Rules of Appellate Procedure provides that, after an appeal is taken, the trial court may "[p]roceed further in any matter in which a nonappealable

interlocutory order has been entered, notwithstanding the filing of a notice of appeal or a petition for review of the order." This Court quashed Husband's appeal as interlocutory on February 16, 1995. Thus, the trial court did not lack jurisdiction to proceed in this matter.

Husband also claims that the finding of contempt in this matter does not comply with the five-step procedure set forth in Crislip v. Harshman, 243 Pa.Super. 349, 365 A.2d 1260 (1976). However, our Court has decreed that the five-step procedure "is clearly not applicable to a situation in which the...contempt proceedings are predicated upon the violation of an order or decree which has been entered after a full hearing and which [has] been served upon the contemnor." Rouse Phila. Inc. v. Ad Hoc '78, 274 Pa.Super. 54, 74, 417 A.2d 1248, 1259 (1979), cert. denied. 449 U.S. 1004, 101 S. Ct. 545, 66 L.Ed.2d 301 (1980). The

contempt orders in the present case are predicated on the violation of the July 22, 1994 order. This order was entered after a full hearing at which Husband appeared and gave testimony, and was served on Husband at the conclusion of this hearing. Thus, under Rouse, the procedure used by the trial court in this case was not improper.

Moreover, the court held three hearings in August and October of 1994 concerning Husband's compliance with the terms of the July 22, 1994 order before holding him in contempt. Husband was finally adjudicated in contempt on November 2, 1994 for willful violations of the July 1994 order. Thus, Husband had notice of the terms of the order and the actions that he was required to take pursuant to that order. Accordingly, we cannot find that the trial court erred in adjudicating Husband to be in contempt of court.

Husband also claims that the court failed to take evidence concerning whether his failure to comply with the July 22, 1994

order was willful and whether he had the present ability to comply with this order. This claim, however, is belied by the record. The court held hearings on August 29, October 18, and October 31, 1994. Husband, although he failed to appear in person, was represented by counsel at each of these hearings. Wife established at the hearings that Husband had transferred $2.5 million to a bank in Gibraltar, that a large portion of this money was then returned to Husband's new account in the United States, that Husband purchased three annuity contracts with these funds, and that Husband later redeemed the annuities and deposited the proceeds in a Panamanian bank. The trial court found that Husband had retained control of the funds that he had squirreled out of the country and that he had the ability to comply with the July 22, 1994 order. After a review of the record, we agree with this conclusion. Thus, the court did not err in holding Husband in contempt on this basis.

Husband also maintains that the contempt sanctions

appropriate in this case are regulated by statute; namely, 42 Pa.C.S. statues 4132-4136. However, these provisions only apply to findings of criminal contempt. Because Husband was found to be in civil contempt, notwithstanding the fact that he has been incarcerated for a long period of time, these criminal contempt provisions are inapplicable to this case.

Husband next argues that he is illegally incarcerated because he has been imprisoned for more that six months. Husband's claim is based upon section 3502 of the Divorce code, which provides, in pertinent part:

> (e) Powers of the court.--If, at any time, a party has failed to comply with an order of equitable distribution...the court may, in addition to any other remedy available under this part, in order to effect compliance with its order:
>
> (6) issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order by brought before the court, at such time as the court may direct. If the court finds, after hearing, that the person willfully failed to comply with the court order, it may deem the person in civil contempt of court and, in its discretion, make an appropriate order, including, but not limited to, commitment of the person to the county jail for a period not to exceed six months[.]

23 Pa.C.S. statute 3502 (e) (6). Husband's reliance upon this section is misplaced, however, because the court has not entered an equitable distribution order. Instead, this order was entered in response to Wife's emergency omnibus petition for special relief. The divorce action has yet to proceed to an equitable distribution award.

Wife filed the emergency petition for special relief because Husband had attempted to defeat her rights in the marital property under the Divorce Code. In these actions, the court is empowered to "[e]ffectuate economic justice between [the] parties...and insure a fair and just determination and settlement of their property rights." 23 Pa.C.S. statute 3102 (a) (6). Husband argues that the six month limitation applies in the instant case because the July 22, 1994 order is "in substance an interim order of equitable distribution[.]" Brief for Appellant at 8. However, Husband offers no authority, nor has our research disclosed any, to support

this contention. Because we find that statute 3502 is inapplicable to the July 22, 1994 order and the subsequent contempt orders, that statute 3102 (a) (6) authorizes the broad use the court's equitable powers, and that Husband could reverse the adjudication of contmept by compliance with the valid court order, we find that Husband is not illegally incarcerated.

Husband next asserts that the trial court may not issue a successive contempt order without affording him due process of law. Husband anticipates that the six-month limitation on contempt orders found in 23 PaC.S. statute 3502 applies in this case, and that Wife will contend that the court may, nevertheless, continue to find Husband in contempt following the expiration of each six-month period. Our determination that section 3502 does not apply in this case, however, renders this assertion irrelevant. Accordingly, we will not reach the question of whether successive contempt orders may, in appropriate circumstances, be issued by the trial court.

Husband's final claim is that the civil contempt sanctions imposed in this case have ceased to be coercive in nature and, instead, have become punitive. Husband seemingly argues that his continued imprisonment has altered the finding from one of civil contempt to one of criminal contempt.

In the present case, Husband is clearly in contempt of the order issued July 22, 1994. This order directed Husband to (1) deposit $2.5 million in an escrow account in Delaware County; (2) refrain from further concealment of marital assets; (3) list the marital home for sale; (4) pay $75,000 on account of Wife's counsel fees and costs; (5) surrender his passport; and (6) refrain from leaving Pennsylvania. Trial Court Order, dated July 22, 1994. Husband failed to deposit the required funds into escrow., did not sign the necessary papers permitting the marital home to be listed for sale, did not pay Wife's attorney fees, failed to surrender his passport, and fled the jurisdiction, establishing a home in Delaware. The trial court held contempt hearings on August 29,

October 18, and October 31, 1994. The court inquired into Husband's ability to comply with the July 1994 order at each of these hearings. The court also conducted hearings following each of Husband's habeas corpus petitions. These hearings were designed to determine whether Husband could purge himself of the adjudication of contempt. Following each of these hearings, the trail court found that Husband had the present ability to conform to the dictates of the July 22, 1994 order. The court has found that Husband's testimony at these hearings was not credible. Trial Court Opinion, dated September 20, 1995 at 7 ("[Husband's] testimony in each of those hearings was not credible and bordered on ridiculous."); Trial Court Opinion, dated October 30, 1995, at 3 (same). We find nothing in the record before us to conclude that the trial court's determination of Husband's ability to pay is based upon bias, prejudice, or ill will. Nor did the trial court misapply the law regarding civil contempt. Because Husband clearly holds the keys to the jailhouse door, we find that the sanctions imposed

upon him have not lost their coercive effect. Thus, we affirm the orders holding him in contempt of court and denying his petitions for a writ of habeas corpus.

Order at 1555 Philadelphia 1995 is AFFIRMED
Order at 3612 Philadelphia 1995 is AFFIRMED

Husband's Appeal Docketed at No.3773 Philadelphia, 1995
Husband's Appeal Docketed at No.963 Philadelphia, 1996

At No. 3773 Philadelphia, 1995, Husband appeals the order that directed him to produce his tax return and to sign authorizations and releases that would permit Wife to obtain information regarding his financial status. In the appeal docketed at No.963 Philadelphia, 1995, Husband appeals from the denial of his motion for electronic home monitoring and the denial of his oral motion for a reduction of bail. The Pennsylvania Rules of Appellate Procedure permit an appeal as of right to this Court only from a final order of a lower court. Pa.R.A.P. 341(a). "A final order is any order that...disposes of all claims or of all parties[.]"

Pa.R.A.P. 341(b) (1). We find that the orders in question are interlocutory in nature. See, e.g., Commonwealth v. Colleran, 32 Pa. Super. 1, 469 A.2d 1130 (1983) (holding that an appeal from an order revoking bail is a non-appealable, interlocutory order). Thus, these appeals must be quashed.

Appeal at No. 3773 Philadelphia, 1995 is QUASHED.
Appeal at No. 963 Philadelphia, 1996 is QUASHED.

Barbara Jean Crowther Chadwick :IN THE SUPERIOR COURT
: OF PENNSYLVANIA
v. :
H. Beatty Chadwick, :
Appellant : No.1555 Philadelphia,1995

Appeal from the order dated April 21, 1995, Court of Common Pleas, Delaware County, Civil Division at No.92-19535

H. Beatty Chadwick, :
Appellant :
v. :
George Hill, Warden :
Delaware County Prison : No.3612 Philadelphia, 1995

Appeal from the Order entered October 5, 1995, Court of Common Pleas, Delaware County, Civil Division at No.95-80264

Barbara Jean Crowther Chadwick :
v. :
H. Beatty Chadwick, :
Appellant : No.3773 Philadelphia, 1995

Appeal from the Order entered October 6, 1995, Court of Common Pleas, Delaware County, Civil Division at No.95-19535

H. Beatty Chadwick, :
Appellant :
v. :
George Hill, Warden : No.963 Philadelphia, 1996
Delaware County Prison :

Appeal from the Order entered March 7, 1996, Court of Common Pleas, Delaware County, Criminal Division at No. 95-80202.

BEFORE: JOHNSON, FORD ELLIOTT and HOFFMAN, JJ.

Judgment

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court that the judgment of the Court of Common Pleas of Delaware County be, and the same is hereby ORDERS AT NOS. 1555 & 3612 PHILADELPHIA ARE AFFIRMED. APPEALS AT NOS. 3773 PHILADELPHIA 1995 & 963 PHILADELPHIA 1996 ARE QUASHED.

BY THE COURT:

/s/ David A. Szewczak

PROTHONOTARY

Dated: August 22, 1996

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

H. Beatty Chadwick,	: No. 0773 Eastern District
Petitioner	: Allocatur Docket 1996
v.	:
Barbara Crowther Chadwick,	:Petition for Allowance of Appeal
Respondent	:

ORDER

PER CURIAM

AND NOW, this 8th day of April, 1997, the Petition for Allowance of Appeal is denied.

IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

H. Beatty Chadwick,	: No. 0774 Eastern District
Petitioner	: Allocatur Docket 1996
v.	:
GEORGE HILL, Warden,	:
Delaware County Prison,	:Petition for Allowance of
Respondent	:Appeal

ORDER

PER CURIAM

AND NOW, this 8th day of April, 1997, the Petition for Allowance of Appeal is denied.

IN THE COURT OF COMMON PLEAS OF DELAWARE
COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW

Barbara Jean Crowther Chadwick: No. 92-19535
v. :
H. Beatty Chadwick :
and
William T. Chadwick :

ORDER

LABRUM, J. FILED: 4-21-95

AND NOW, this 21st day of April, 1995, upon consideration of Husband's Emergency Petition for Vacation of Sanctions of Incarceration and Bench Warrant, to Remand Proceedings to a Hearing Officer and for a Continuance, and Wife's answer thereto, and after argument thereon this date, it is hereby ORDERED and DECREED that:

1. Count I of Husband's Emergency Petition requesting vacation of the sanctions of incarceration and arrest are denied.

2. Count II of Husband's Emergency Petition requesting a remand to a hearing officer is granted

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

H. BEATTY CHADWICK	:	NO. 95-80264
vs.	:	
GEORGE HILL, WARDEN	:	
DELAWARE COUNTY	:	
PRISON	:	

ORDER

AND NOW, to wit, this 5th day of October, 1995, it is hereby ORDERED and DECREED that Petitioner's Petition for Writ of Habeas Corpus is DENIED.

It is further ORDERED and DECREED that the Intervenor's Petition for Contempt and for Writ of Ne Exeat filed under the Divorce Action #92-19535 are held in abeyance.

BY THE COURT:

/s/ Joseph F. Battle

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

Barbara Jean Crowther Chadwick, Plaintiff	:	No. 92-19535
H. Beatty Chadwick, Defendant	:	IN DIVORCE

ORDER

Counsel for the parties were advised by this Court that a hearing would be held on Barbara Jean Crowther Chadwick's Petition for Contempt and for Writ of Ne Exeat or Writ of Capias Ad Satisfaciendum on Monday, October 31, 1994 at 10:00AM. Defendant, H. Beatty Chadwick was personally served with a subpoena directing his appearance at that hearing and his attorney was served with a Notice to Attend and to Produce directing H. Beatty Chadwick's appearance at that hearing. Defendant, H. Beatty Chadwick, was represented by David Auerbach at that hearing on October 31, 1994. Defendant, H. Beatty Chadwick, did not appear at the hearing on October 31, 1994.

Upon consideration of the Petition for Contempt and for Writ of Ne Exeat or Writ of Capias Ad Satisfaciendum, and after hearing thereon, it is hereby ORDERED and DECREED as follows:

1. H. Beatty Chadwick is held in Contempt of Court for willful violations of the Order of July 22, 1994. He is to be apprehended and incarcerated until a further hearing is held.

2. Because of defendant H. Beatty Chadwick's failure to appear at the scheduled October 31, 1994 hearing, notwithstanding valid service of a subpoena directing his appearance, this Court has issued a bench warrant for H. Beatty Chadwick's arrest. Said bench warrant shall not be rescinded without the approval of the undersigned judge. When apprehended, defendant, H. Beatty Chadwick, shall be incarcerated until a further hearing is held.

3. Defendant, H. Beatty Chadwick, is hereby enjoined from selling or in any way profiting from the release, publication,

writing or other dissemination of the facts which are the subject of this litigation and any such rights or benefits are assigned to plaintiff, Barbara Jean Crowther Chadwick.

4. This matter is again referred to the Delaware County District Attorney's office and the United States Attorney's Office for possible prosecution of criminal charges against defendant, H. Beatty Chadwick.

5. Defendant, H. Beatty Chadwick, is again ordered to surrender his United States passport to this Court until further order. The State Department shall be notified of this Order and of the July 22, 1994 order so that appropriate action may be taken, including the placing of a hold on H. Beatty Chadwick's United States passport. This Court has previously ordered that H. Beatty Chadwick shall not leave the Commonwealth of Pennsylvania, and shall not leave the United States.

6. This matter is referred to the Disciplinary Board of the Supreme Court of Pennsylvania for investigation of the ethical

violations by H. Beatty Chadwick. This Court recommends to the Disciplinary Board that H. Beatty Chadwick's license to practice law be suspended as soon as possible.

DATED this 31st Day of October, 1994 at Media, Delaware County, Pennsylvania.

BY THE COURT

/S/ Joseph T. Labrum
11-2-94

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW

Barbara Jean Crowther Chadwick:		No. 92-19535
Plaintiff	:	
v.	:	IN DIVORCE
	:	
H. Beatty Chadwick		:ATTORNEYS NOS.
Defendant		:04774/35386/63126

ORDER

AND NOW, this 22nd day of July 1994, upon consideration of Wife's Emergency Omnibus Petition for Special Relief, it is hereby ORDERED and DECREED that:

1. Within twenty-four (24) hours of the entry of this Order, H. Beatty Chadwick is directed to return the $2.5 million that he transferred out of the United States in February, 1993, to an account under the jurisdiction of this court, to be held in escrow by counsel for Barbara Jean Crowther Chadwick and counsel for H. Beatty Chadwick pending further Order of the Court.

2. Husband is enjoined from further assigning, concealing, secreting or dissipating marital assets;

3. The marital home located at 280 Roberts Road, Bryn Mawr, Pennsylvania, shall immediately be listed for sale by a court-appointed third party;

4. Husband is directed to pay, forthwith on account of Wife's counsel fees and costs the amount of $75,000.00;

5. Husband is directed to surrender his passport to this Court pending further Order of the Court;

6. Husband is enjoined from leaving the jurisdiction of this Commonwealth until further Order of Court.

7. This matter including a transcript of the testimony shall be referred to the Delaware County District Attorney's Office and to the U.S. Attorney for consideration of possible ons of criminal charges.

BY THE COURT:

/s/ Joseph T. Labrum